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B. F. FACKENTHALL MEMORIAL

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B. F. Fackenthal, Jr., Esq.

June 16, 1917

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Ruegelsville, Pa.

Fackenthall

FACKENTHALL

AN

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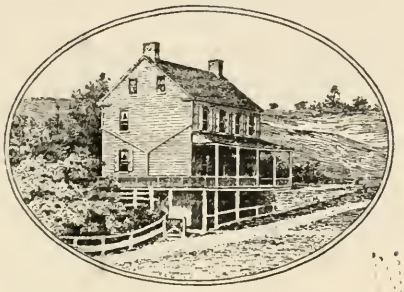
Yours truly
P. D. Hackenthall

[*From photograph taken June 12, 1885*]

Memorial

of

Benjamin Franklin Fackenthall



BIRTHPLACE OF B. F. FACKENTHALL

Born, November 28, 1825
Died, January 14, 1892

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INTRODUCTION

Almost a quarter of a century has passed away since the death of Mr. Fackenthall. At that time his family was asked by a number of his friends to prepare a memorial, with the particular thought of preserving the newspaper articles, letters and addresses that had been delivered on his life and professional services, but this pleasant task, for various reasons, was delayed, until now, at this late day, they are presented. All of his friends who contributed to these public testimonials have since passed away, except three, one a member of the Bucks county bar, the other two members of the Northampton county bar.

No attempt has been made in this short biographical sketch to write the family history or genealogy. It merely shows his ancestry, and gives a brief record of his life, particularly his education and preparation for his professional career.

January, 1917

BIOGRAPHICAL SKETCH

ANCESTRY

NOVEMBER the twenty-eighth, A. D. 1825, Benjamin Franklin Fackenthall, the subject of this sketch, was born on his father's farm in Durham township, Bucks county, Pennsylvania.

He was descended from Philip Fackenthal, the founder of the Fackenthal family in America, who emigrated from a Rhine province in Germany, sailing from the port of Rotterdam, by way of Cowes, England, on the good ship 'Robert and Alice', arriving in Philadelphia, September 24, 1742, and taking the prescribed oath of allegiance the same day.

Philip was but nineteen years of age when he landed in America; on his arrival he settled in Springfield township, Bucks county. In 1750, at the age of twenty-seven years, he married Anna Elizabeth Bleyler, daughter of John and Anna Maria Bleyler, of Upper Milford township, now Lehigh county, but then part of Bucks county. On May 19, 1753, he bought a farm of one hundred and thirty-two and a half acres of land in Springfield township, where his

five children, two sons and three daughters, were born. The eldest of these was Michael, the grandfather of Benjamin Franklin Fackenthall. Philip Fackenthal died May 22, 1768, at the age of forty-five years. His widow survived him for many years; on May 5, 1788, she joined with her five children, two sons and three daughters, all of whom were then of age, in a deed conveying part of the homestead to Henry Rode, and on May 12, 1788, in another deed, conveying the remaining part to Isaac McHose (mason) who had married her daughter Mary. The date of her death is not known, but there is evidence to show that she was living in January, 1790.

Facsimile of signature of Philip Fackenthal as signed by him to the oath of allegiance on his arrival in America, September 24, 1742

MICHAEL FACKENTHALL

Michael Fackenthall, the grandfather of Benjamin Franklin, was born on his father's farm, above referred to, in Springfield township, May 23, 1756, and therefore was but twelve years of age when his father died. As a boy and young man he lived with his widowed mother, on the farm, and helped to support the family. His opportunities for educating himself must have been very meagre.

On August 21, 1775, at the age of nineteen years, he enrolled himself among the 'associators' (a military organ-

ization) of Springfield township, and in the summer of 1776, he enlisted as a sergeant in Captain Valentine Opp's company as a soldier of the Revolution. This company was one of the five companies from Bucks county which together with five companies from Northampton county formed a part of the celebrated 'Flying Camp'; this enlistment was for six months. In 1780 he enlisted a second time, as ensign in Captain George Hineline's company. In 1781 he enlisted a third time, as second lieutenant in Captain Christopher Wagner's company, of which the 'fighting Quaker', John Lacey, was brigadier general. His only brother (Henry) was also a soldier of the Revolution, who also enlisted several times. In 1779 Michael's name appears on the Durham furnace books as manager of farms for the Durham Iron Company.

Prior to his second enlistment he married Christeena Derr, daughter of John and Magdalena Derr, of Upper Milford township. By this marriage he had five children, two daughters (who were the two oldest) and three sons, of whom Michael, Jr., the father of Benjamin Franklin, was the youngest.

Michael Fackenthall was what was considered in those days a large land owner, owning a number of farms and wood lots in Springfield, Durham and adjacent townships in Bucks county, Pennsylvania, and in Hunterdon county, New Jersey. In fact, the records at Doylestown (the county seat of Bucks county) show so many transactions in real estate by him, that he might be called a land speculator.

In 1791 he purchased one hundred and forty-five acres

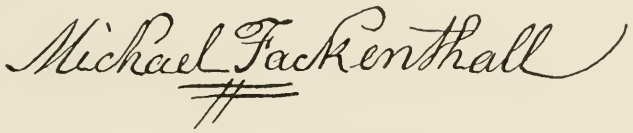
of land, lying partly in Springfield township and partly in Durham township, the dwelling house where he made his home, and where his two youngest children were born, being on the Durham side of the township line. From that time forward, for the remainder of his life, he continued to be a resident of Durham. In 1804 he purchased a farm of two hundred and thirty-four acres in Durham Township along Durham creek, where he lived until 1807, when he purchased Durham tract No. 12 (of the 1773 sub-division of Durham township), containing one hundred and sixty-four acres, and removed there with his family. In 1820 he purchased part of Durham tract No. 13, containing fifty-four acres of land, on the eastern end of which the village of Monroe had been built (which village he had the honor of naming) together with its improvements, consisting of dwelling houses, ferry across the Delaware river, sawmill, gristmill, hotel and other improvements. In 1812 he bought Laughrey's Island (fourteen acres) in the Delaware river, opposite the mouth of Gallows run, at Linns Falls, where he erected a sawmill; and in 1822 his son Michael, Jr. became his partner in this lumber operation. This sawmill was swept away by the floods of 1841, and was not rebuilt.

He was a man prominent in local affairs, serving as county commissioner from 1801 to 1805, and as a member of the Pennsylvania legislature from 1812 to 1815 inclusive; he was also commissioned as a justice of the peace, and served in various other public capacities; he was one of the three commissioners, appointed by the state in 1817

to lay out the public road along the Delaware river, from Monroe in Bucks county to Easton in Northampton county.

He is described as being a large man, six feet three inches in height, with whom General Washington at one time 'measured heights'.

He died in the village of Monroe in Durham township, January 21, 1846, in the ninetieth year of his age. His wife, Christeena Derr, was born September 24, 1757, and died September 5, 1828, in the seventy-first year of her age.



Facsimile of the signature of Michael Fackenthall

MICHAEL FACKENTHALL, JR.

Michael Fackenthall, the younger, was born May 13, 1795, on his father's farm, heretofore referred to, situated in the northwestern end of Durham township, part of the farm lying across the township line in Springfield township.

On October 20, 1822, he married Anna Margaretta Illick, daughter of John and Catharine Illick, of Lower Saucon township, Northampton county, Pennsylvania. By this marriage there was issue of but one child, Benjamin Franklin Fackenthall, the subject of this sketch.

As a young man Michael, Jr., worked on his father's farm in summer, and attended the township school in

winter. Outside of this limited instruction, he was self-taught, and became quite proficient in his studies, particularly in mathematics. He was a splendid accountant, and his penmanship was a model of neatness. For a short time he taught school. In 1822 he purchased an interest in his father's lumber business.

On September 20, 1820, he purchased of his father eighty-one acres of land in Durham township, being part of the one hundred and sixty-four-acre Monroe tract, above referred to; the part purchased containing the then homestead of his father. The property extended to the Delaware river, which formed its eastern boundary; this was prior to the digging of the Delaware Division canal. To this home he brought his bride in 1822, and there his son, Benjamin Franklin, was born in 1825.

On March 4, 1828, he purchased four acres additional of land immediately along the Delaware river, adjoining his other lands on the north, making the total area of the tract eighty-five acres. During his younger years he operated this farm himself, but later rented it out to tenants 'on shares'. In 1841 he built a new house, fronting on the Delaware river, on the eastern end of this land, along the canal. The house, still standing, was built of stones, plastered on the outside and overcast with red brick dust and marked out to resemble red bricks, a quite common way of finishing houses in those days. Later it was painted on the outside. He intended to occupy this house as a home for himself and family, but his plans were changed, and he continued to reside on his farm. He therefore rented this new house, Thomas Zearfoss becom-

FACKENTHALL HOMESTEAD ON DELAWARE RIVER
ERECTED 1841

ing one of his tenants. When he finally moved into it, he occupied the southern end and Thomas Zearfoss continued to live in the other end. The friendship between these two, thus begun, continued throughout the remainder of their lives.

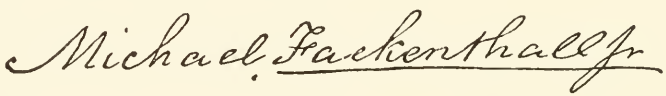
Michael, Jr., followed the profession of scrivener and land surveyor, which occupied the greater part of his time. As a surveyor he was considered an expert, and his services were greatly in demand. He was also frequently employed in the writing of wills, deeds and other legal documents, for which he had a special aptitude. He was entrusted with the settlement of many estates, and frequently acted as executor or administrator. At several different times he served as a justice of the peace.

In politics he was a Whig, and later a Republican. He was, however, deeply interested in the anti-masonic political movement of 1827 to 1833, of which Hon. William H. Seward and Hon. Thurlow Weed were the moving spirits. He was a delegate to the National Anti-Masonic Convention, which convened at Philadelphia, September 11, 1830; and again to the second National Anti-Masonic Convention, which convened at Baltimore, Md., September 26, 1831, at which Hon. William Wirt of Maryland (John Quincy Adams' attorney general) was nominated for president, and Judge Amos Ellmaker of Lancaster, Pa., for vice-president of the United States. At a state convention held at Harrisburg, Pa., February 22, 1832, he was chosen as a presidential elector for that party; in a letter bearing date March 12, 1832, he pledges himself,

if elected, to cast his vote for the nominees of the Baltimore convention.

His wife, Anna Margaretta Illick, was born August 15, 1803, and died October 24, 1852, in the fiftieth year of her age.

He contracted a second marriage on November 2, 1856, with Miss Elizabeth Wint of Allentown, Pa., at which place he purchased a house and lot, where he made his home. There was no issue by this marriage. Elizabeth Wint, his second wife, was born October 20, 1814, and died November 21, 1864, in the fifty-first year of her age. After her death he moved back to his old neighborhood, making his home with his old friends, Mr. and Mrs. Thomas Zearfoss, in Alexandria (now Holland) township, Hunterdon county, New Jersey, on the bank of the Delaware River, almost opposite across the river from his old Durham home. Here he quietly passed away, February 15, 1872, in the seventy-seventh year of his age. In stature he was a spare man, six feet in height.



Facsimile of the signature of Michael Fackenthall Jr.

BENJAMIN FRANKLIN FACKENTHALL

Benjamin Franklin Fackenthall (Frank, as he was called), born November 28, 1825, attended, as a small boy, the public schools of Durham township, where, it has been said, he easily led all his classmates, particularly in mathematics and in writing essays. One of his school-

mates told the writer of these notes that as a boy in the old McKeen Long schoolhouse at the village of Durham he was noted for his ability in making stump speeches.

At the age of thirteen years he was a competent land surveyor, and his father had a short staff made for his compass, suitable for his height; this staff is still in possession of the family.

At Vanderveer's Academy

On November 26, 1839, at the age of fourteen years, he entered the academy of Rev. John Vanderveer, D. D., called the 'Minerva Seminary', at Easton, Pa., to begin his preparation for college. He made rapid progress in this celebrated school, and soon became so advanced that Dr. Vanderveer wrote to his father requesting permission to employ him as an assistant teacher. The letters of Dr. Vanderveer, which are at hand, say that by teaching four or even six hours daily, he would have time enough left to keep up with his class work. He was, therefore, at the age of fifteen and one-half years, employed by Dr. Vanderveer for one scholastic year, beginning May 17, 1841, to teach four hours daily. For this service he received his 'board, tuition, etc'. The inducement was held out that if he would teach six hours daily, he would be paid seventy dollars for one scholastic year, in addition to his board, tuition, laundry work, etc.

His orations delivered, and essays read, before the Minerva Literary Society, have been preserved. They are models of neatness and of excellent penmanship, and show

him to have had a versatile and resourceful mind, and an ability worthy of an older student.

During his last year at the academy, beginning May 14, 1842, he was president of the Minerva Literary Society, and delivered the inaugural address. During that year he did not teach. At the close of the school year, when he graduated from the academy, he delivered the closing address.

He kept a journal during part of the time he was at Dr. Vanderveer's academy, part of which has been preserved, viz: from May 14, to July 21, 1842, wherein he records his daily doings, made up mostly with a record of his studies.

At Lafayette College

His preparation for college under Dr. Vanderveer was so thorough that he easily entered the junior class at Lafayette College, and it was not long before he stood at the head of his class.

On entering Lafayette College, November 2, 1842, he joined the Franklin Literary Society, and later served as its president. The interest which he had taken in his literary work at Dr. Vanderveer's was continued throughout his college course. His first essay read before the Franklin Literary Society that has been preserved, bears date November 10, 1843. Some of his notes of the lectures by his Lafayette professors have been preserved. Those on chemistry appear to be quite complete. During 1842–1843, we find him editing a Franklin Literary Society paper called 'The Holy Bull'. On three occasions he delivered orations in the college chapel; and on September

19, 1843, he delivered an oration in the First Presbyterian Church of Easton, Pa. For a short time while at college he kept a journal. This, too, has been preserved.

He was graduated by Lafayette College with the highest honors of his class, and at the commencement, September 18, 1844, at the age of eighteen years and ten months, delivered an oration, subject, 'On the State of Our Country', and was honored with the valedictory addresses. These have also been preserved.

The diploma granting him his Bachelor of Arts degree bears date October 14, 1844 and that granting him his Master of Arts degree bears date October 27, 1847.

Among the family papers are his *taufschein* or certificate of birth and baptism, setting forth the date of his birth, November 28, 1825; date of his baptism by Rev. Nicolaus Mensh, February 19, 1826. Also his certificate of confirmation by Rev. William T. Gerhard, pastor, to membership, October 5, 1844, in the German Reformed Church at Durham, Pennsylvania.

Student at Law

On December 18, 1843, at the age of eighteen years, while in his senior year at Lafayette College, he registered as a student at law in the office of Hopewell Hepburn, Esq., at Easton, and when this preceptor moved to Pittsburgh, Pa. (where he afterwards became a judge), Mr. Fackenthall, in October, 1844, immediately after graduating at Lafayette College, entered the office of Hon. James M. Porter, where he completed his law course.

As a law student he pursued the same methodical habits

of study that had characterized his work at school and college. This is shown by his note book, in which he wrote out in full the definitions and maxims of legal propositions, and legal forms, many of which he considered his duty to memorize.

During his law clerkship he was frequently called upon to deliver orations and speeches in different parts of Northampton and Bucks counties. In politics he was a Republican. He was an enthusiastic admirer of Henry Clay, the Whig candidate for the presidency in 1844, whom he supported, although too young to have a vote.

On November 16, 1846, before reaching his majority, he was examined by "five of the counsellors of the said court of Northampton county," who recommended him for admission to the bar.

He assisted his preceptor, Judge Porter, in preparing a case for trial in court (Commonwealth vs. Jacob Crause, indicted for murder); and John Shouse, Esq., the associate counsel, becoming ill during the trial, and in view of the fact that Mr. Fackenthall had taken down the notes of testimony (there were no court stenographers in county courts in those days), Judge Porter, therefore, on May 21, 1846, moved that the rules of court be suspended, and that he be admitted to membership in order that he might take Mr. Shouse's place in trying the case and make the first speech to the jury in summing up. The request was granted by President Judge John Banks, and he was accordingly admitted and sworn in on that day, one week before reaching the required age of twenty-one years.

After his admission to the bar he continued as assistant to Judge Porter for at least one year.

From March 16, 1847 to March 19, 1850, he served as town clerk for the borough of Easton, and at the expiration of his term of office, March 19, 1850, he was made borough engineer, which office he resigned September 13, 1850. During this time he made carefully prepared drawings of the borough streets, including a separate plan of the so-called 'centre square'. This borough work required but a small part of his time and did not interfere materially with his law practice.

In 1847, he married Catharine Dennis, daughter of Adam and Susannah Dennis of Easton, Pa. They made their home at Easton, where Mr. Fackenthall continued to practice law until December, 1850, when he removed with his family to Doylestown in the county of Bucks, where he was admitted to the bar December 2, 1850. He practiced law there until after his mother's death in 1852, when at the request of his father they removed on February 28, 1853, to Durham township in the house heretofore referred to, which his father had built along the Delaware river, about midway between Durham Furnace and Monroe, an etching of which is shown in this publication. This change of residence was made partly in order to make a home for his father, who by the death of his wife had been left alone; and partly because at that time he had accepted a position of trust at the Durham iron works, of which Joseph Whitaker and Company were the proprietors. While associated with the Durham iron works he also practiced law in a limited way in both Northamp-

ton and Bucks counties. When his father sold his farm to Henry Adams, May 4, 1855, ten acres of land were reserved for this new Durham homestead.

During the year 1857 he resigned his position at Durham iron works, and resumed the active practice of the law at Easton, continuing, however, to keep his residence at Durham. On March 16, 1863 he was admitted to practice in the Supreme Court of Pennsylvania.

On September 1, 1865, Messrs. Lewis Lillie and Son of Troy, N. Y., purchased the Durham iron works, with its 1,000 acres of land, and besides the mining of iron ore and the production of pig iron, added a plant for the manufacture of fire-proof and chilled cast iron burglar-proof safes and bank vaults. This firm soon became financially involved, and Mr. Fackenthall was called in to accept a position of trust, and when the firm finally failed in business and the property was taken over by the creditors during November, 1867 (deed to Lillie Safe and Iron Company dated December 27, 1867), he was made general manager of the works. He continued in that position until the property reverted to Messrs. Cooper & Hewitt, when on April 1, 1871, he returned to Easton and again resumed the practice of the law, in which he continued during the remainder of his life.

On April 1, 1877 he moved his home from Durham to Easton, where he continued to reside until the family was broken up by death, his wife Catharine dying at Easton, June 7, 1885, in the sixty-first year of her age. She was born in Lower Nazareth Township, Northampton County, near Easton, March 20, 1825.

P. F. Hackendall

[*From photograph taken at the age of about thirty years*]

Mr. Fackenthall was a sufferer with inflammatory rheumatism for some years prior to his death, and for two or three years was confined to his home at No. 38 South Fourth Street, Easton, where he passed away through heart failure, January 14, 1892, in the sixty-seventh year of his age. His mind and remarkable memory remained perfect to the very end. His body lies buried beside that of his wife in the family plot at Durham church cemetery, where the bodies of his parents and grandparents also lie buried. He was borne to his grave on Monday, January 18, 1892, by his six sons. The funeral services were in charge of Rev. Henry S. Kieffer, D.D. and Rev. Thomas C. Porter, D.D.

What Mr. Fackenthall was as a scholar, lawyer, business man and citizen, the following tributes by his associates will show.

OBITUARY NOTICES

FROM THE EASTON, PA., NEWSPAPERS

BENJAMIN F. FACKENTHALL, ESQ., the senior member of the Northampton county bar, died Thursday afternoon, January 14, 1892, at 4:45 o'clock, at his residence on South Fourth Street, this city, from a complication of troubles, including dropsy, from which he had been a sufferer for several years, in the sixty-seventh year of his age.

Mr. Fackenthall was born at Durham, in the neighboring county of Bucks, November 28, 1825. He was a son of the long since deceased Michael Fackenthall, who, in his lifetime, was a prominent and influential citizen of the upper end of Bucks county, and whose ancestors emigrated to Pennsylvania from Germany early in the last century.

When quite a lad Mr. Fackenthall came to Easton and entered the school of the late Rev. John Vanderveer, D. D. to prepare for college. After studying there for some time he taught one year in the same school and then entered Lafayette College, from which he graduated in 1844, being

the valedictorian of his class, having attained the highest grade that had ever been attained up to that time. After leaving college Mr. Fackenthall entered the law office of the late Hon. James M. Porter, and after studying assiduously for two years he was admitted to the bar of Northampton county, November 21, 1846. In 1850 he moved to Doylestown, the county seat of his native county, where he remained for two years, when at the solicitation of the Durham Iron Company, he accepted a position in its service, where he remained for several years, when he returned to Easton and resumed the practice of the law.

About 1865, the Durham Iron Company, which later became the Lillie Safe & Iron Company, again desired his services and he then accepted the position of superintendent of the establishment, where he remained until 1870, when he again returned to Easton to resume the practice of his profession, in which he continued up to the time of his death, except during the greater part of the last two years, when he was prevented from engaging in active practice on account of his ill health.

Mr. Fackenthall married in 1847 Catharine Dennis, who preceded him to the grave a few years ago. Nine children survive the deceased, viz: Carrie, wife of Dr. I. S. Moyer, of Quakertown, Pa.; Michael, general manager of Crozer Iron Works, Roanoke, Va.; Harry, at Philadelphia; B. F., Jr., general manager of Durham Iron Works; Dr. Howard, practicing physician in this city; William, attorney in this city; John S., general manager of Glendon Iron Works; Annie M., wife of Charles M. Magee of this city, and Miss Katharine, who resides at home.

After Mr. Fackenthall came to the bar in 1846 his abilities as a lawyer were soon tested and developed by meeting his senior brethren in the profession, which at that time held in its ranks such distinguished men as the late Judge James M. Porter, Gov. Andrew H. Reeder, Alexander Brown, Gen. Peter Ihrie, as well as others of equal distinction, and it was not long before he succeeded in winning a place at the bar second to none of them. He entered upon his profession equipped with a liberal education, a well-disciplined mind and a thorough course of legal study, which, together with a natural legal turn of mind, soon won for him professional eminence. He succeeded to a lucrative practice, counting amongst his clientage suitors in almost all the important causes tried in our courts, as well as in many cases in the neighboring counties of Bucks, Lehigh and Carbon.

It was always a pleasure to listen to Mr. Fackenthall expound a legal proposition. Few men were gifted as he was in expressing his ideas with the same clearness, lucidity and perspicuity. As an advocate before a jury he was equally strong. He won by addressing juries with a calmness, and a certain urbane manner which captivated the juror and carried conviction to him with an irresistible force. Although usually calm he at times rose to great and true eloquence. Mr. Fackenthall was pre-eminently a lawyer in the strictest sense of the term; and likewise an honest one. He maintained the morale of the profession. No act of his ever marred the escutcheon of the honorable profession he had chosen.

In his intercourse and dealings with his professional

brethren he was always fair. He never resorted to the tricks of the pettifogger, and he despised all such conduct in others. When he once distrusted a man for cause the latter could never regain his confidence. He hated everything that had the appearance of unfairness, and no man was more apt to discern the designs of one who tried to take an unfair advantage. He hated hypocrisy and cant, and for the dissembler he had no use.

In politics he was an ardent Republican. He loved his party and believed in its principles. He was a Republican from honest convictions and not for expediency's sake, for he never held any kind of office and would not accept any. He always took a lively interest in public affairs and no man had a greater discernment of the drift of events than he had.

While Mr. Fackenthall was extraordinary as a lawyer in many respects, so far as skill, ability and learning are concerned, he was equally extraordinary in other respects.

There probably never has been a lawyer at this bar, or in this part of the State, or any person in any other walk of life, that was more familiar with books than Mr. Fackenthall was. He was an omniverous reader of miscellaneous books. His library is probably the best stocked one in this city with the choicest books of every description; and it is doubted whether there is a book in his library of several thousand volumes which he has not read, and not only read, but remembered the contents thereof. He retained all the impressions of his early life and all the various incidents by which he was surrounded. His fund of information was enormous. There are many who will

remember the many pleasant hours spent with him in his library discussing men and books. The visitor never left him without being the wiser for having spent an hour with him. He invariably learned something from him he did not know before. Away from his professional desk he was one of the most genial and interesting men one could meet with. The last two years of his life, while confined to his house the greater part of the time, he spent in the company of his books, and the visitor who called on him felt that he was in an atmosphere of serene intellectual contentment. Although he saw the grim reaper of death approaching for more than two years, he was cheerful even under those circumstances. No man ever saw death approaching with greater philosophic resignation. He looked upon it as one of the things inevitable, and it never brought from him a murmur. His fortitude in this respect was as extraordinary as many of the other inherent qualities of his character. But he is gone from amongst us never again to return. By his death the community loses a good and useful citizen and the bar of Northampton county a member, who stood at the head of the profession, and who was its brightest ornament.

FROM THE EASTON, PA., NEWSPAPERS

On Thursday afternoon, January 14, 1892, at 4.45, Benjamin F. Fackenthall, Esq., one of the most widely known, one of the oldest, most careful and successful lawyers of eastern Pennsylvania, died at his residence on South Fourth Street, this city. He was born in Durham in the county of Bucks on the 28th of November, 1825.

His father was Michael Fackenthall, one of the most prominent and influential citizens of the county. His early education was acquired under that admirable teacher, the Rev. John Vanderveer, and he graduated from Lafayette, the valedictorian of his class, in 1844. He studied law with Hon. James Porter and was admitted to the bar of Northampton county in 1846. After several years in the service of the Durham Iron Company he practiced law in Easton for a while and again abandoned it for the superintendency of the same company. He continued superintendent of the company (then known as the Lillie Safe & Iron Company) until 1870, when he resumed the practice of his profession and soon gained a large clientage. About two years ago he was incapacitated by illness and was unable to leave his house, but he still continued to attend to such business as did not necessitate his attendance at court until last June, when the progress of his ailment caused him such intense suffering that he was no longer able to give his clients the benefit of his advice and assistance. During all this time his mind was unaffected, and the same quickness of apprehension, clearness and vigor which had distinguished all his mental work and given him prominence in his profession was observable to the last. He had a natural aptitude for the profession he had chosen, a love for knowledge, a carefully cultivated power of thought and a great force and clearness of expression. He was an omnivorous reader and had a tenacious memory. He could find in almost any book something worth considering and remembering and he had the ability and capacity for sustained labor and a power of concentra-

tion which enabled him to thoroughly master any question which occupied his mind. He watched the slow approach of death with calm, philosophical resignation, accepting the inevitable with cheerful recognition of the inexorable requirement of natural law, and he occupied his mind with useful work while he waited for the end. He never lost his interest in the current affairs of life, and until the hand of death was laid upon him watched the progress of political events with keen interest. He was an ardent Republican in politics, but was never an office seeker.

He leaves a large family of children who by his death are left fatherless and motherless—his wife (*nee* Catharine Dennis) having died a few years ago. His six sons are engaged in professional work of various kinds—one of them, William Fackenthall, being well known as a practicing lawyer of Northampton county.

FUNERAL SERVICES

The funeral of the late B. F. Fackenthall, Esq., the well-known lawyer, took place this morning, January 18, 1892, at 9:30 o'clock, from his late residence on South Fourth Street, and was largely attended; among the friends present were about thirty members of the Northampton County Bar.

Rev. Dr. Thomas C. Porter of Lafayette College preached the sermon and Rev. Dr. Henry M. Kieffer conducted the service; the pall bearers were the six sons of the deceased. The funeral cortège proceeded to Durham, where the interment took place.

The opening of court at the usual hour was delayed until after the funeral services. Shortly after its formal opening ex-Judge Oliver H. Meyers stated that it had become his sad and painful duty to announce to the court, the death of Benjamin Franklin Fackenthall.

Mr. Meyers said:

May it please your Honors: The sad and painful duty has devolved upon me to announce to the court the death of our brother, Benjamin Franklin Fackenthall. You can readily imagine how painful a duty it is for me to perform, when you learn that I have known Mr. Fackenthall well and intimately nearly one-half a century—just one year less than half a century. I can fix the very day and hour and place when and where I first met him—the first day of January, 1843, when I passed the threshhold of Lafayette College, and within one hour afterwards met him in the room of our common friend, Mr. App. I was with him then, in company with my friend, Mr. J. W. Santee (now the Rev. Dr. Santee of Cavetown, Maryland), who had gone there with me, as a student; we remained about an hour and a half, and I soon found that there were some things, though I was some years his junior, in common between us. We were of the same lineage; he spoke kindly to me, and, to make me feel at home, conversed with me in German, and I was somewhat astonished—I had not at that time been much away from home—to hear him converse in English so well, and equally well in our common mother tongue. Besides, he spoke to me so gently

FACKENTHALL HOMESTEAD, 38 SOUTH FOURTH STREET, EASTON PA.

and kindly, which deeply affected me. As I had just entered college, I was a member of the model school, while he was a member of the junior class, standing highest in the class even at that time. There was naturally very little in common between us, so far as our daily college life was concerned, during my stay at college, until he graduated. However, the acquaintance with him which I formed at that time, upon that day and under the peculiar circumstances I have indicated, gave me opportunity to speak to him and for him to speak to me at various times. We were members of the same society, the Franklin Literary Society, and realizing the fact that my acquaintance with him was a source of great pleasure to me, I naturally took great interest and pride in hearing him in all his exercises there, in declamation, in the reading of essays, and especially in debate. I knew him from that time on; he was my friend and I was his.

As I can fix the time, the hour and the place when I met him first, nearly half a century ago, so can I fix the place, and the day and the hour when I met him and spoke with him the last time that he was with me as a living brother. About four weeks ago I called at his house, as I frequently did—and it was a great pleasure to him to meet his friends there—and I spent with him probably an hour and a half. He told me then that it was a matter probably only of months, or weeks or days, that he could be with us, and there was evidence upon his face and in his appearance of approaching dissolution; but under all those circumstances, when I met him then, as well as when I had met him before during his illness in the last three years, he

was always in a pleasant and cheerful frame of mind. His sickness itself did not seem to worry him much, nor the consequences of his disease, which he knew would sooner or later result in death.

I have said that I had known him for nearly half a century. Our relations as friends, and our relations in social, business and professional life were probably closer than I had with any other person; they were closer, because they continued during a longer period of time than with those even of my own blood.

Many of us knew Mr. Fackenthall better in his professional than in his social relations. But he was a man of a strong social nature and disposition, although this was limited to his social intercourse with some of his friends at his home or at his office. To the profession, generally, he was best known as a lawyer, as he also was to a very large clientage in this county and in Bucks county, and to quite an extent in our neighboring counties, where he was probably as well and as favorably known as any man who has practiced at this bar.

Mr. Fackenthall was a man of superior intellectual force, which manifested itself when he was but a mere boy as a student at the school of Mr. Vanderveer, where he ranked highest among the pupils. He remained there until he was ready to enter the junior class of Lafayette College, which he entered in 1842, the youngest student enrolled in that class. He graduated in 1844 with the highest honors as valedictorian. As a student at Lafayette College he enjoyed the respect and esteem for his learning and ability of such men as Dr. John W. Yeomans, president

of the college, and Professors George Junkin and Washington McCartney.

He studied law with Hon. James M. Porter, and was admitted to the bar of Northampton county in 1846, before he was twenty-one years of age. With the exception of a few years when he practiced law at Doylestown, and a few years when he was at Durham Furnace, he practiced as an attorney in the city of Easton, where he died.

Mr. Fackenthall, as I have said, was a man of great intellectual force. But it was an intellectual force that was not directed simply in the line of his profession. There was probably no man in this community who was so familiar with general literature, or who read more or more carefully and intelligently than he did on subjects covering a wide field of general interest. There was probably no man at this bar who so well understood the principles and maxims of the law. He often said to me that, while it was the habit of some men to denounce the method of studying law by committing to memory its maxims and definitions as they appear in the books, yet it was his plan and his method to understand fully and clearly the principles and maxims of the law in the first instance, and that when he found them expressed by jurists and by others, whether it was Blackstone, or Coke, or Littleton, or Kent, or Gibson, or Lord Eldon, or Mansfield, or Marshall, or any of the greater lights in jurisprudence, if they expressed the principles as he understood them in language that was clear, concise, and easily understood, it was his duty to learn and adopt them, instead of formulating them in his own language.

Mr. Fackenthall was a great lawyer; he was a great lawyer in his office to counsel his clients; he was a great lawyer at nisi prius in the trial of causes. But above and beyond that he had a profound, clear and penetrating judicial mind, so much so, that after a few years' practice at the bar he was sought for to act as master in chancery and as auditor, both in this court and in the courts of Bucks county, probably in more cases than any two or three other lawyers at the same bar, and any one who has read his reports, either as master in chancery, or as an auditor, well knew that they never failed to cover the whole question, and that he brought to bear upon it all the powers of his mind with its great store of legal knowledge and its analytical and logical training. I recall only one case in which he was reversed by this court and the supreme court. If Mr. Fackenthall in the prime of his life had occupied the highest seats in the judiciary of this state he would have left his mark on the jurisprudence of our commonwealth, and he would have attained an eminence as a jurist second to none in the state.

It was a pleasure to try a cause with Mr. Fackenthall, because he was so careful and guarded, and, while he was ever ready to advance his own views, he was equally ready to hear the views of his associate and to give them equal attention with his own. If the case involved any intricate questions, which by close and earnest investigation he succeeded in solving, he did not keep his knowledge back until the critical moment in order to secure the honor of victory to himself, but always communicated the result of his investigation to his associate counsel at the first

opportunity. As I have said before, he was ever ready to receive suggestions from his associate counsel; if they met his approbation he would adopt them with the same readiness as if they had been original with himself. It was not less a pleasure to try a cause against him, because when he came into court, he did so to try the cause upon its merits, as he understood the law and the facts; he never wandered from the straight line of his duty, nor did he ever by chicanery, or trick, or strategy, endeavor to win his cause. Indeed, such was the nature of his mind and character that if he felt that he had no case upon the law and the fact, it was impossible for him to twist the law, or distort the evidence so as to give him a victory which the law and justice of the case would not sanction. You could tell at once by his manner and by his demeanor when he felt that his client was not entitled to a verdict. If all men were constituted like him in this respect there would probably be less litigation than now appears upon the records of our courts, because he was fearless as to consequences to himself in advising his clients; if he had grave and serious doubts as to whether a party had a just cause of action upon the facts presented to him and from an examination of the law applicable thereto, he had no hesitation whatever in so informing his client in the most emphatic manner.

It was no less a pleasure for me to hear him try a case when presiding upon the bench, because he would present his case so clearly, so simply, so succinctly, and he would embody the whole case, both as to the law and the fact in his points with such clearness and precision that it was

not at all difficult for me to understand the case from his standpoint.

In the investigation of legal questions he applied all the energy and strength of a well-trained mind, and while he spent probably more time upon them than others would, he did so because so tenacious and conscientious was his purpose in the discharge of his duty that he did not leave a stone unturned, not a case unexamined, that might by any possibility throw some light upon the subject by which to arrive at a true and just determination of the questions. A case occurs to me where he was master in chancery, which involved a question new to him, as he thought, and which was new probably to most of the profession; a question arising out of a trust mortgage with reference to some particular mode of enforcement. I cannot just now recall the exact nature of the question, but Mr. Fackenthall went into the examination of it, considering at length the principles involved, citing authorities which were analogous to the principle which he considered should govern its determination, giving his reasons for the conclusion he had arrived at, and after he had finished his report to the court and had filed it, a supreme court case was discovered which had either been reported before and had been overlooked, or which had just then been reported after his report was finished, in which the same question was discussed and determined, and in which the court had by the same process of reasoning arrived at exactly the same conclusion. The supreme court case was the result of the examination of the question by seven judges, while Mr. Fackenthall stood alone.

Mr. Fackenthall, in social intercourse, was one of the most kindly of men. You could go to him, either at his chambers or at his residence, whether in reference to cases in which he was concerned with you or against you, and you would be sure of a kindly and courteous reception. Not only in cases where he was concerned, but if you went to him for counsel and advice in your own cases on difficult points of law (for it is a matter of common notoriety that more of the junior members, and even of the older members of the bar, men of his own age, went to him oftener than to any other to ask him what the law was upon some difficult question) and he would not only tell you if he knew it, but if he was not quite sure of it he would lay aside his work with pleasure and assist in examining the authorities for the purpose of determining the question.

He was a good listener. He liked to receive the views and ideas of others, not only upon questions of law, but also upon literary topics, for, as I said before, Mr. Fackenthall's knowledge of literature was almost unbounded; he was an omnivorous reader, and he brought about him a collection of books of the highest grade and of the highest standard and character: a collection of books probably unequaled in any private library in this state outside of the cities of Philadelphia and Pittsburgh. He was not only an omnivorous reader, but he read with care and discrimination, and what he read he assimilated and what he assimilated he endeavored, upon proper occasion in the line of his profession, to apply, and to use with force and effect.

He was not only acquainted with literature, but he had made great and valuable acquisitions in science. He was a practical surveyor and engineer and had made himself master of the subject of the construction and operation of blast furnaces and the mining and smelting of iron ore, and his knowledge upon that subject and his skill in its practical application was probably equal to that of any man in Pennsylvania. His mind possessed that diversity of power, comprehension and inquisitiveness, that made his acquisition in many branches of knowledge singularly profound and non-superficial.

It may be said of him, which cannot be said of many, that no one ever left his presence after conversing with him, or heard him try a cause, or address a jury upon questions of fact, or a court from the highest to the lowest upon questions of law, that was not either amused, or instructed and wiser than he was before.

But he is gone! His light has gone out. We shall never see him here again either as friend, or as one engaged in the trial of causes, or sitting as a judge either in cases in equity, or at law as master in chancery or auditor. But his memory will remain as long as the profession has reverence for a man who was profoundly learned in the law, whose conduct at the bar was guided and determined solely by strict integrity and honesty, who resorted to no improper methods to win his cause and to gain victory for his client, save those alone which would satisfy the conscience of a just man.

Mr. Fackenthall is gone. I feel that I cannot speak any further. I feel that I have lost my best friend. I know

what my feelings were towards him, and I believe from the innermost recesses of my heart that he felt a true friendship for me.

I move, may it please your Honors, that this court now adjourn as a mark of respect to the memory of our departed brother, Benjamin Franklin Fackenthall, and that these proceedings be entered upon the minutes of this court.

In response to the motion and remarks of Ex-Judge Meyers:

President Judge W. W. Schuyler said:

In the death of Mr. Fackenthall the bar of this judicial district has sustained an irreparable loss. He was a superb, an almost incomparable lawyer. His mind was a very storehouse of legal principles, which came forth unbidden as they were required. Whilst in the trial of a cause, no matter how complicated or how protracted, no detail, however minute, escaped his attention, he never for a moment lost sight of the vital points in controversy. These, however, are qualities which, although by no means common, are not so rare as to call for further comment.

But Mr. Fackenthall had one quality of a great lawyer, in which he was almost, if not altogether, without a peer. I refer to his power of clear and concise statement. Charles O'Connor once said that the greatest compliment he ever received was paid to him by a friend, who said: "O'Connor, you never argue a case; you simply state it." So it was with our deceased friend, almost literally. And Oh! the manner of it! After the evidence was all in and the supreme moment had arrived when he was to speak the

last word, not merely for his client, but for justice, such perspicuity of thought, such keen analysis, such faultless logic, such felicity of expression, such happy illustration, enlivened where the occasion justified it by such delightful humor, I have never heard equaled. There was no straining after-effect, no appeal to the groundlings, no attempt at oratory, although not infrequently forced by his feelings into the highest flights of eloquence; but with his mind inflexibly fixed on the pivotal questions in the cause and brushing aside as so many cobwebs all non-essentials, he seemed imbued with but a single purpose and that was to make others see the truth as he understood it and as he believed it to be. In this purpose he never failed. His arguments, if arguments they may be called, were always brief, and the wonder was that when he had concluded there was nothing left to be said on his side of the case.

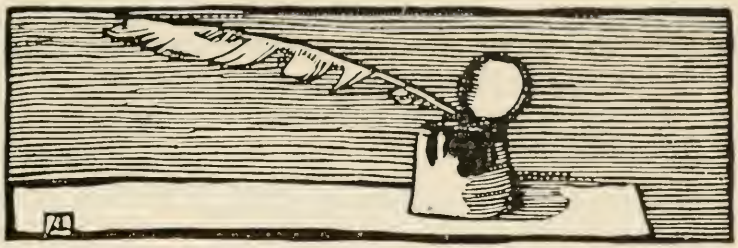
Another quality which Mr. Fackenthall possessed in an eminent degree and which to my mind constituted one of the brightest jewels in his crown was his fidelity to the court. This quality by reason of its rarity is deserving of special emphasis. But here I find the thoughts which suggest themselves, expressed so much better than I could express them by the late Chief Justice Woodward in his eulogy on the life of William M. Meredith, that I will borrow his words:

"This man, sir, of whom we are speaking, would have suffered martyrdom before he would have imposed upon a judge a case as evidential of the law when it was within his knowledge that that case had been overruled. He would distinguish that which was distinguishable, but be the consequences to his argument what they might, he would exhibit the mind of the law to the judge just as he found it, and therefore the judge would

trust the advocate. That is the way Mr. Meredith grew in the confidence of the supreme court, and of all the courts before which he practiced. That is the way that any lawyer may acquire the confidence of a court; it is the only way. Trick, falsehood, suppression of the truth belong to another class of practitioners. Mr. Meredith was incapable of either."

This is high praise, but is none the less applicable to our deceased brother.

But Mr. Fackenthall was more than a mere lawyer. Of him it might be truthfully said, what Lord Bacon said of himself, that he had "taken all knowledge for his province." He was a rapacious reader of general literature and retained what he read; with the classics both ancient and modern he was entirely at home; he was fully abreast of the times in which he lived on all the great questions of the day; he was a natural mathematician; in all the mysteries of the manufacture of iron he was an acknowledged expert; he was well read in the science of medicine and in the natural sciences generally; he spoke both English and German with equal fluency and Addisonian purity; he was a rapid and skillful penman, and last, but not least, he was as a conversationalist the most delightful and charming of men, and as a companion the most genial. And yet from his early manhood his bodily health had been continually infirm. Had his physical strength been commensurate with his mental vigor, and had he been guided by a well-directed ambition, I venture to say that there was no position, however high, either professional, political or social to which he might not have successfully aspired, and which he would not have adorned. As a token of respect for his memory it is ordered that the court do now adjourn.



MEETING OF THE NORTHAMPTON COUNTY BAR

IMMEDIATELY after the adjournment of court the members of the bar held a meeting to take action on the death of Mr. Fackenthall.

On motion of Russell C. Stewart, Esq.,* Judge Schuyler acted as chairman.

Henry W. Scott, Esq.,* stated that he had been asked to submit resolutions expressive of the sense of the loss sustained by the death of Mr. Fackenthall.

He followed with eulogistic remarks and concluded by offering these resolutions:

Be it resolved by the Bar of Northampton County:

I. That in the death of B. F. Fackenthall, Esq., we deplore the loss of a learned and accomplished lawyer, with attainments rarely reached; a scholar of rich and exact information in the liberal arts; a man of firm and unbending constancy to and unrelenting against professional delinquencies. He goes to his grave

*Henry W. Scott and Russell C. Stewart, Esqrs., were both afterwards president judges of the Northampton county courts.

amid the universal laments of those who knew him well, leaving as legacy to those who remain the memory of a stainless name.

II. That we wear the usual evidences of mourning for thirty days and that we cause to be transmitted to his family a copy of these resolutions.

The remarks of Mr. Scott were as follows:

A few years ago when we were here to lament the death of another member of our little company, and words of deserved eulogy had been spoken before the opened grave had claimed its kindred dust, he whose death we now mourn, then beginning to experience the physical suffering which ended only with his life, added his share to the general tribute. When he resumed his chair his countenance was mellowed with emotion, as he turned to me and said: "I wonder who will be here to say such kind things of me when my turn comes?"

So Col. Edward D. Baker, as he stood on the shores of the Sunset Sea and pronounced the historic funeral oration of David C. Broderick, with his face fixed upon the lofty summits of Lone Mountain, that gave name to the cemetery where his hero was buried, exclaimed with all the passion of an agonized soul, "Who will so speak for me when I am gone?"

The memory of our brother deserves words of eulogy. Measure them by kindness, by generous meed of praise, by extravagant commendation. They are no more than just.

While his funeral train is still passing we will not forget that he has often stood in this place to speak of others who had preceded him into the shadows. Like Lycidas, he

knew himself to sing and build the lofty rhyme. So let him not go,

> Unwept and welter to the parching wind,
> Without the meed of some melodious tear.

He was always foremost in the race. They who best knew him said he had no rivals when a schoolboy; at college he easily wore the first honors; he was admitted to the bar before the legal age, and then wrestled with giants.

What he was then, few are left to tell; what he was afterwards many of us know. He was no student of declamatory or rhetorical artifice; he never seemed to make any effort; the statement of a case was his argument; it was as clear as the pure water bubbling from the mountain side on a summer morning, and just as unpretentious; it made no noise, but its steady flow watered the fields, and the harvests came. His memory was tenacious and his learning exact; he could cite the page and volume of leading cases without reference to digests; he could say upon which side of the page the report began. He knew the law; if it was with him, the cause was safe; if against him, he placidly awaited defeat; he could not fight when he knew all the artillery was with the enemy. Such was the structure of his mind that he could not win a bad case—but it was much more to the purpose of justice that he could not lose a good one—*then* he captivated courts and persuaded juries. He won verdicts because he deserved to win them. He was a hard worker; he prepared carefully briefs both of law and of facts. If a lawyer in these days trusts to genius, rather than to activity, his clients will go a-sorrowing. New law from

old analogies is made every day; corporate industries multiply; science drags mighty secrets from nature's breast; steam appliances rest the hands of the individual toilers; electricity has been bridled and commanded to service; all the mighty forces of 'this pendent world' are in action; but sovereign law above them sits supreme. Today she watches all these complicated agencies, working side by side; she sees where each intrudes upon the other. Tomorrow she makes a rule which they must obey; no longer are they like 'sweet bells jangled out of tune and harsh'.

The next day there is a new law upon the statute book, or a new edict in the judgment of the courts.

Mr. Fackenthall was a scholar, and a ripe and good one; all his life he had been a student of books; the world's history and its literature he knew well. His library contained handsome and valuable editions of standard authors; but he prized much more the old and musty volumes, of rare and forgotten memoirs, which from year to year, he found in their hiding places, upon old book stands, at street corners, or in dark cellars where they shared their places with the moth and the beetle.

It is one of the tenderest touches of literary life, that Robert Southey in his last years, at his home in the beautiful lake country, when his mind was dimmed by disease, and no longer awakened to the memory of dearest friends, walked around his library, took from their shelves one by one, and caressed as if alive, the books which once had fed his soul; they had been his cherished companions; long before he had written of them,

My days among the dead are passed;
Around me I behold,
Where'er these casual eyes are cast,
The mighty minds of old.
My never-failing friends are they,
With whom I converse night and day.

This, too, was the comfort of him who has just gone. For two years he was a prisoner in his home, but he was not discontented. The books of his younger manhood were about him; they filled his rooms to overflowing; his sufferings forbade sleep, and the gray dawn of early morning not rarely, indeed, still found him a solitary watcher in that household, but absorbed in well-remembered pages, with as much as priestly devotion.

The last time I ever looked upon his living face, faithful hands had taken from the walls, and placed in long rows upon the floor, these companions of his dying hours. Arranged in sections, their titles uppermost, he could easily reach them. All other interests had vanished, but these remained. The love of books, born in boyhood, was a solace to the end, while ghostly phantoms were marshaling their hosts for his procession to the grave.

He always believed that law and literature could ride in the coach together; his life exemplified this belief. He had, besides, studied the memoirs of all times; he has left none here behind him with equal knowledge of the political and social intrigues of empires, of courts and of cabinets; he reveled in Sully, in Grammont, in Walpole and Wraxall.

He used pure English, drawn from old wells undefiled; he strove not for lofty eloquence; he spoke clearly, because

he knew what he intended to say. Judges listened, because they expected to be informed; no words were wasted. His thoughts often found expression in the quaint speech of the age of Elizabeth.

His place will not easily be filled. Many of the faces here when I first came have disappeared; but how ephemeral is the lawyer's fame! It seemed when some were taken away as if the business of the courts was over, and the wheels must stop. But now their loss is little reckoned. Though the Porch of Agrippa and the Appian Way looked down upon many an illustrious Roman, yet it remained for him to tread the path of Numa and of Ancus.

The killing frost has touched our brother; but we go on until beneath some summer sun or winter blast friendly lips shall do for us as we for him.

Gen. W. E. Doster said:

I first made the acquaintances of Mr. Fackenthall while I was a student in the office of the late Gov. Reeder, nearly thirty years ago. The eminent men of the Northampton bar at that time were James M. Porter, Andrew H. Reeder, Alexander E. Brown and Henry D. Maxwell. Another generation of eminent men had preceded them—Samuel Sitgreaves, Robert M. Brooke, Joel Jones and Hopewell Hepburn, but their names are known only by tradition. The juniors of the bar then were Henry Green, E. J. Fox, O. H. Meyers, Max Goepp, W. W. Schuyler, and our deceased brother, B. F. Fackenthall. Of this generation one has become a judge of the supreme court, two judges of the common pleas, and three have gone to their rest. Mr. Fackenthall early had the reputation of having a

natural talent for the law, of being besides a first-rate mathematician and surveyor; also of being somewhat shy and diffident. My preceptor, Hon. Andrew H. Reeder, was fond of getting his offhand opinion on vexed law questions, and always expressed great confidence in the soundness of his judgment on a point of law. How well this was deserved I did not understand until I came to meet him as auditor, master in equity, and as associate or opposing counsel, when I appreciated not only that he was a lawyer of wide reading, but that his natural sense of the soundness or fallacy of a legal proposition was exceptionally acute, and that before a Northampton jury he was a most formidable antagonist. If I were called upon to say just in what his power over a jury lay, I would answer that it was, first, in a thorough acquaintance with our people, and next, in avoiding rhetoric and talking to them just as one plain man talks to another. His influence with the court, and the pleasure judges generally showed in hearing him, can hardly be explained by the mere fact that his arguments were well prepared. In addition to this, there was about the current of his logic a certain limpid clearness and smoothness, mixed with humor of a quaint sort, that was refreshing to persons weary of declamation, which riveted the attention and generally resulted in his captivating the understanding of the court. For many years, as is well known, no one but he was thought of as master of equity or auditor in important causes, and his success in those departments, seems to me, was due somewhat to his mental constitution, which was naturally fair and impartial; to his thorough acquaintance with the principles

of chancery and practice in the orphans' court, and to his remarkable skill as an accountant, conveyancer and draughtsman. It is true it took him a long time to file a report or try a cause, but this was not from lack of industry, as was proved by the character of his work when it came in, which showed a prodigious amount of labor in marshaling testimony and collecting decisions. To me it always seemed that this trait was due to the unconquerable aversion of a thorough lawyer to turn out superficial work, or to approach the decision or trial of a legal question, before he is fully master of it.

The public was not slow to discover Mr. Fackenthall's merits, and it was a common saying that his clients would stick to him under all circumstances—whether he lost or won their cases—whether he was willing to see them, or avoided them.

With this loyal following, and with such deserved reputation for skill in all the branches of the law, it would have been natural and pardonable if he had held an overweening opinion of himself. But it is well known he underestimated himself, walked humbly, was free of conceit and always ready to learn. In his intercourse with his fellow-practitioners he was genial, courteous and fair, and seldom forgot that there was another side besides his own, and possibly the other side was the right side. Unquestionably his mind was judicial rather than controversial, and it is to be regretted that his modesty forbade his seeking a place on the bench, in which case he would doubtless soon have become widely known, and appreciated as one of the best all-round lawyers that this state has produced.

Mr. Fackenthall also escaped the narrowing influence of the profession by keeping up his general reading. He was well posted in English literature, history particularly, as well as in the political history of this country. During his long illness it was my privilege to visit him occasionally, and I was glad to notice that he found in his books and favorite authors that reprieve and consolation in which the greatest of Roman lawyers tells us lies their chief value. It was also pleasant to observe that his enforced retirement from business had not filled him with regrets and repining, but that he was cheerful, delighted to see his friends, and followed their careers with affectionate interest. When he approached the discussion of a legal question, he showed the same luminous clearness of mind that he did twenty years ago.

Having thus spent his best years in doing what he liked to do, and doing it so excellently well that he unconsciously maintained the best traditions of the bar to which he belonged, and having faced the inevitable hour with resignation and fortitude, his career offers little to regret, and much to admire and imitate. Nothing is easier than for a lawyer in active practice for many years to gather a harvest of enemies, and I dare say Mr. Fackenthall gathered his share. Nevertheless, as I believe, he never abused his profession to injure any man, but served his clients well, and was square in his dealings. I think it is safe to predict that his name will be affectionately remembered for a long time by almost every one who came in contact with him. *Extinctus amabitur idem.*

W. C. Shipman, Esq., seconded the resolutions with the following remarks:

I consider it my duty to express on this occasion my estimate of the great lawyer, whose body this day is laid away forever in the silence of the grave. It is a duty because he was my preceptor, and of his law students I am now the senior in practice at the bar. It seems almost incredible that nearly a score of years has passed away since the morning I stepped into Mr. Fackenthall's law office to begin the practical work of a law student's clerkship. He was then in the prime of manhood, less than fifty years of age.

I think as a law student under his direction, and as a practicing attorney, frequently his colleague, that he bestowed upon me a measure of his confidence, and in that aspect it is a sad pleasure to me this day to bear witness in this presence that the simple, plain, manly character which you all saw, was the true man, which neither nearness of touch nor closeness of relation changed or modified. Those sterling qualities which we today, by concurrence of opinion, reverently award him as our estimate of worth, were his own, actual and substantial. Indeed, it may truthfully be said that while the public knew that he was a great lawyer, few knew and perhaps even some lawyers at this bar were not acquainted with the full extent of his powers and resources. He surprised me upon my first advent in his office with a learned discussion of the higher mathematics that I had studied in my college course. Some time afterward in the trial of an ejectment, I discovered he was an expert surveyor and civil engineer; and

again when a client happened in the office with a mining lease, I found that not only was he the specialist at the bar on mining law, but on mineralogy, methods of mining, and on the construction and operation of blast-furnaces as well, and moreover, by reason of his wide reading and ripe scholarship he was well informed on theology, medicine, biography and history.

The wonder is that with the time demanded by the work he was engaged in that he could make such varied, yet accurate and thorough acquisitions. Whoever went either to his office or his home for a chat or upon business, and found him too busy to converse? He was ever ready to open the stores of his learning and give his time without stint. We know not a few, the old and the young, the experienced and the tyro—all went to him as to an oracle that would respond, and that too in clear, forcible, unequivocal language of conviction. He was a master of English, pure and undefiled. He spoke German with grace and fluency. He could read the classics with ease, but never showed a trace of pedantry. His mind was analytical. He never attempted high-sounding rhetoric or posed as a vapid declaimer, yet the intensity of his convictions and the rapid movement of his mind often forced him to the highest and truest forms of oratorical expression and impassioned eloquence. His diction was pellucid, and neither court nor jury ever missed the point of his case, or lost the purport of his argument. His perspicuity and the absolute convictions of truth and justice were the weapons with which he battled for his clients' interests. No man was more faithful to his principles in his advice

to clients than he, always counseling in the spirit of an arbitrator or a judge rather than encouraging their litigious propensities, but when the strife came on, he was twice armed and ever ready for the contest. Gifted as he was in mind, equipped perfectly for the work of the profession, he had his full measure of sorrow and afflictions. Pain racked him in the maturity of his years, and during the latter years of his life often prevented him from giving that prompt attention to his clients that the jealous Mistress Law requires. But his large clientèle was loyal and he was to them utterly unselfish and without a tint of avarice or greed. He despised the methods of the money-maker and could never descend to oppression or extortion for gain. He had his contentions and quarrels, but he knew his friends and never entertained an enmity that did not include in some way a violation, as he supposed, of his confidence or his friendship. But he was easily placated. He lived long enough to see his large family grown up. He retained to the last their attachment and devotion, and when in the sunset of that winter day the angel of death brought his summons, faithful hands supported him into 'the shadow of the dim unknown'. Let us hope that there his oft-quoted prayer of the ancient hero for light was granted, and as his poor, worn, inanimate body fell a clod to the bosom of the earth, his crystal spirit descried the resplendence of the eternal morning.

Judge Howard J. Reeder said:

When on my way to the court house this morning, I had no intention of saying anything here in relation to the life and character of Mr. Fackenthall; but there was one

eminent quality of his character that has been but slightly referred to, which peculiarly distinguished him as a lawyer, from which we can all draw a lesson, and which, I think, merits further notice.

My recollection of Mr. Fackenthall goes back to a very early period of my life. I remember seeing him engaged, when I was a boy of about ten years of age, in trying a case in the old court house in the square with my father (Gov. Andrew H. Reeder) as the opposing counsel. I very distinctly recall the case and question involved and the point upon which it turned. The point was decided against him by the presiding judge, when he, very much displeased, gave up the contest, submitted the case to the jury without calling further witnesses, and without commenting on the evidence already in, left the court house in great indignation.

Anyone acquainted with that in Mr. Fackenthall's character to which I refer, as it was developed afterwards, can very well understand this feeling of indignation. As I now know, it was a decision contrary to the law and very manifest error, and it has often been a wonder to me since, how an experienced judge could have been so misled, although I have long since ceased to wonder at Mr. Fackenthall's indignant withdrawal at that time.

One of the qualities of Mr. Fackenthall's character as exemplified in his methods of practice, and the one to which I refer was his eminent fairness in arguing any legal proposition. Mr. Fackenthall was not on terms of close intimacy or friendship with myself; and, although I was frequently associated with him as counsel, adverse to him

in other proceedings, and brought into close association with him in other ways, I always realize that in some manner I antagonized him, that I never could get close to him; yet, as a lawyer, since I have been on the bench, no member of this bar stood so high in my confidence. His entire fairness in an argument of a legal proposition; his inability to argue a legal point in which he disbelieved, made me hesitate, even though my convictions were of the strongest against the proposition which he asserted, when it was urged so earnestly and so well by such a conscientious lawyer as he, to determine the cause in accordance with my judgment, lest I erred. I have known Mr. Fackenthall, in urging a legal proposition of great importance to his client, where a suggestion was made by the court in relation to the law which controverted and seemed to be a complete answer to the interpretation he advocated, stop, deliberate, and then admit to the court that it seemed to him that the suggestion by the court was unanswerable; then, perhaps, in a subsequent stage of the case, an answer to the position suggested by the court might suggest itself to his mind, when he would again raise the question and argue to the court and submit, with the utmost fairness, the new view that had occurred to him.

His inability to argue in behalf of a proposition in which he didn't believe, placed him in a position before the court which but very few members of the bar occupied. The clearness with which he stated a legal proposition, and the confidence of the court that any legal proposition advanced by him was thoroughly believed in by himself, the ease with which he brushed out of the case all collateral and

irrelevant matter likely to mystify the jury or mislead the court, or to envelop the real point at issue in the case in uncertainty, afforded a gratifying sense of relief to the court in trying a case in which he was concerned.

His loss will be very seriously felt by this bar; his loss will be felt very much more seriously by the court; and, no matter what my personal relations to Mr. Fackenthall were, yet I always felt an admiration for his great ability and have a kind and friendly feeling for him personally, I could not help but pay this tribute of admiration to his great learning as a lawyer, for the clearness of statement and the logical method with which he always argued questions before the court, as well as his breadth of mind, the vast scope of his general information, and a tribute also of respect to his character in his conscientious behavior both to his client and to the court in the conduct of all legal business which he undertook.

Russell C. Stewart, Esq., then read letters of condolence and regret that had been received from Judge Samuel S. Dreher, president judge of the courts of Carbon and Monroe counties, and from Judge Edwin Albright, president judge of the Lehigh county courts. The letters are as follows:

Stroudsburg, Pa.
January 16, 1892

Russell C. Stewart, Esq.

Dear Sir:

On my arrival home this evening I find your favor of yesterday, informing me of the death of B. F. Fackenthall, Esq., and that a bar meeting will be held on Monday.

I would attend the meeting, but must return to Mauch Chunk, to hold court early on Monday morning.

I take this opportunity to express the esteem and regard I had for Mr. Fackenthall as a man and lawyer. He was a good lawyer, clear headed and honest. While he would earnestly battle on every inch of debatable ground, he would not contend for a position which his judgment told him was not tenable. He was fair, sincere and candid to the court, and true to his clients.

I was not intimately acquainted with him socially, my contact and intercourse with him being principally in his profession, but I can say that I always found him a genial, pleasant and interesting man.

I desire to have conveyed to the family my sympathy in their bereavement. *Yours truly,*

SAML. S. DREHER

Allentown, Pa., January 17, 1892

R. C. Stewart, Esq.

Dear Sir:

I received with sorrow your announcement of the decease of Benjamin F. Fackenthall, Esq.

I regret that official duties render it almost impossible for me to be present at his burial, or at the meeting of your bar, to which you have invited me.

Mr. Fackenthall was a profound and acutely discriminating lawyer and was truthfully candid and honorable in the practise of his profession. The lawyers to whom he was known are the better for his example, that I deem high praise of a member of our profession.

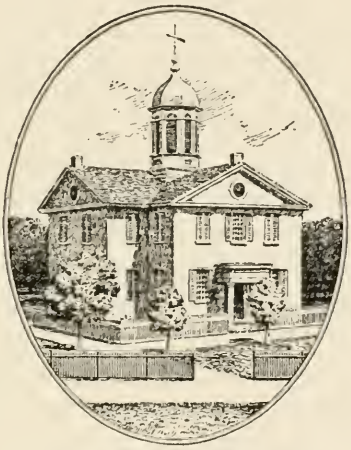
With your bar I mourn his decease.

Yours truly,

EDWIN ALBRIGHT

Mr. Stewart also read a telegram from the Bucks county bar, stating that its members had held a meeting and passed resolutions of condolence which had been sent forward by mail.

The account of that meeting and the resolutions referred to are contained in the following, which appeared in the Doylestown newspapers:



FIRST COURTHOUSE AT EASTON PA.
IN CENTRE SQUARE, 1766-1861

MEETING OF THE BUCKS COUNTY BAR

THE Bucks county bar held a meeting at the law office of N. C. and J. D. James, Esqs., on Saturday evening, to take action touching the death of their fellow-member, B. F. Fackenthall, Esq., who died at Easton, his place of residence, on Thursday, January 14, 1892. After the meeting was called to order, the Hon. Harman Yerkes, president judge of the Bucks county courts, was elected chairman and Henry O. Harris, Esq., secretary.

The chairman stated that he had received a letter from the secretary of the Northampton County Bar Association, officially informing him of the death of Mr. Fackenthall, and that inasmuch as the deceased had, for several years, been a resident practicing member of this bar, it seemed right that some appropriate action should be taken. In the course of his remarks Judge Yerkes bore testimony to the high professional reputation of the deceased, stating, among other things, that he was told, on a recent occasion by a legal gentleman, every way qualified to speak, that Mr. Fackenthall was the ablest lawyer in the Lehigh valley.

Senator George Ross followed with equally appropriate remarks, touching the personal and professional character of the deceased, taking occasion to review his career with greater minuteness, and closed by moving that a committee of five be appointed to report resolutions expressive of the sense of the bar on the decease of their distinguished brother, whereupon the chairman appointed Senator George Ross, Hon. Joshua Beans, General W. W. H. Davis, John L. DuBois and Nathan C. James, Esqs.

The committee retired, and, in a few moments, reappeared, when Mr. Ross reported a preamble and resolutions.

While they were before the meeting ex-Judge Richard Watson, who had come in while the committee was out, took occasion to deliver a brief, but very fitting eulogy on the professional and business life of Mr. Fackenthall, reviewing it from the time he was admitted to the Bucks county bar down to his death. (This is printed below.)

On motion the preamble and resolutions were unanimously adopted as follows:

WHEREAS, the bar of Bucks county has learned with regret of the decease of B. F. Fackenthall, Esq., of Easton, Pa., and

WHEREAS, Mr. Fackenthall for some years was a resident, practicing member of the bar of Bucks county, and since his removal to Easton, has maintained an active connection with the courts of this county, and a friendly association with the members of the profession here, and it is the desire of this bar, to place on record their esteem for the man and their appreciation of his learning and ability as a lawyer; therefore

Resolved, That in the death of Benjamin F. Fackenthall the profession of the law loses one of its highest ornaments; he was learned, studious, devoted to the interests of his clients, and ranked as a lawyer amongst the ablest members of his profession in eastern Pennsylvania. As a man he was affable and cordial, and respected by all who knew him.

Resolved, That the secretary of this association be requested to certify these resolutions to the family of the deceased and to the Bar Association of Northampton County, and that they be presented to the courts of Bucks county to be spread upon the records thereof.

On motion the meeting adjourned.

REMARKS BY EX-JUDGE RICHARD WATSON

Mr. Chairman: There are but few of us left who were at the bar when B. F. Fackenthall, Esq. was a resident attorney at Doylestown. As one of the survivors, who knew him intimately then and since, it becomes me to add something to what others have said, as a testimony to his ability and his worth. To our younger fellows he was known only as the earnest, skillful, and learned advocate who occasionally appeared in the Bucks county courts for the trial of a cause or the management of other important legal business. But to you and to me and to a few more of our old associates, he was not only this, but also the genial companion and friend. We remember him as one of the brightest and most cultured of our circle, as one of the most admired and esteemed among us.

He was born in Durham. Came of honest, strong bodied and sound minded stock; an old and well-known German

family for his ancestry. His father Michael lived at the river road a little way above the tavern and mill at Monroe. The house is nestled in a little cove between the road and canal on the one side and the steep hill upon the other. His childhood days were spent in Durham. I suppose he went to the township school with the other children of the neighborhood. At all events he somehow got enough learning to admit him as a student (in the junior class) at Lafayette College at Easton, which was then also comparatively young in its class; he graduated with distinction at an early age and immediately entered the office of the Hon. James M. Porter of Easton as a student of law. His habits made him a close student; his natural capacity and lifelong training enabled him to grasp the law as a science and apply it to the particular business in hand as occasion required. When he came to the bar he was not a fledgling but fully grown, armed and ready for the legal fray.

About the time of his admission he married a good wife who bore him sons and daughters, most of whom survive him and have won for themselves useful and honorable places in the world. One of them who bears his father's name is the able and trusted manager of the Durham Iron Works, whose only restraint in the management is the requirement to report at stated periods to the owners as to what is being done.

In December, 1850, Mr. Fackenthall was admitted to the Bucks County Bar and settled at Doylestown as a practicing attorney. He lived in the house where Mrs. Nathan C. James' new house now stands and his office was in the frame building adjoining. His oldest son, Mikey, a little

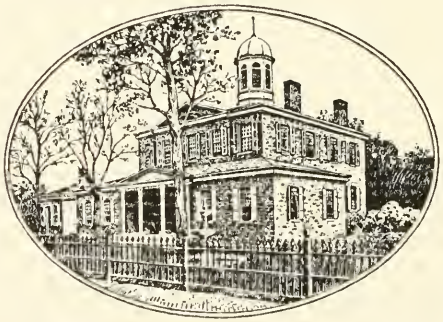
toddler, is well remembered as a brown haired, bright eyed little boy. He has developed since into an educated and efficient iron master.

Mr. Fackenthall remained here, I think, about two or three years, when he quit the law and went back to his early home at Durham, and became connected with Joseph Whitaker and Company at the iron works. He remained with them until 1857, when he moved to Easton, Pa., to resume the practice of the law; he remained at Easton for some years, when he again returned to the Durham Iron Works and was soon afterwards appointed to the management of the works. Little Mikey had been his assistant, had grown up, been educated and graduated as fit to manage a furnace and make iron. Young Frank too was qualified to take his father's place at the furnace and the father yearned to be at the bar again; and so he went back to Easton and resumed the practice of the law. For a time he continued his residence at Durham and went and came between the two places. After a while he moved to Easton and lived there the rest of his life.

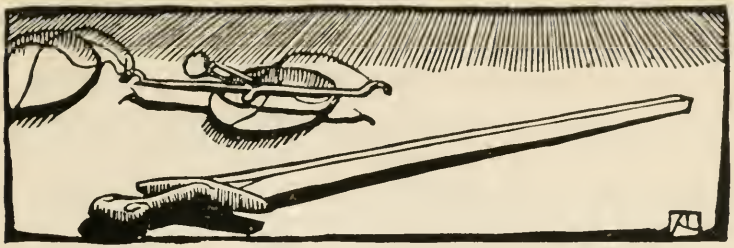
His well-known ability and learning, his industry and skill in the management of his business and his zeal in securing the rights and interests of his clients soon brought him enough to do and put him in the front rank of lawyers at a bar of the highest standing. Here he stood while health and strength permitted him to work. But sickness came and for a time, I know not how long, he was an invalid, confined to his house and hopeless of recovery. His much loved and well-read books furnished him with something to do and think about, and helped to relieve

the tedious suffering of his long illness. At last when the final summons came he was ready with the cheerful, happy answer, "Adsum."

I have spoken of him as I knew him. Since he last went to Easton my intercourse with him has been less frequent than before, but I have known him as a learned, studious, careful and successful lawyer and as an amiable, truthful, honest and honorable man, whose character is worthy of emulation and by whose example all his fellows may profit.



OLD COURTHOUSE AT DOYLESTOWN, PA.
1812-1877



MEMORIAL PORTRAIT

Address of Hon. William Beidelman in Presenting an Oil Portrait of the Late B. F. Fackenthall, Esq., at the Court House at Easton, Pa., September 23, 1901.

MAY it please the court: When I was asked to present the portrait of the late Benjamin F. Fackenthall, Esq. to this court, I expressed the regret that some one else better fitted for the task had not been selected. The task assigned to me, however, on this occasion is a very pleasant, and most grateful one. It nevertheless brings with it a tinge of sadness, as so many recollections loom up, associated with the one whose memory we propose to honor, by placing his portrait in this public place, together with other distinguished members of this bar who have gone before. As, however, the emotions which struggle within us, may be a matter largely personal, we will let the mantle of love and affection conceal them, and recall a few of the traits in the character of Mr. Fackenthall, with which those who were his contemporaries are familiar, as a lawyer, citizen, associate, and friend.

It is needless to speak of him as the eminent lawyer that he was, for we all know, that he filled the full measure of the most distinguished in his profession. He was a great student of law; his clear and scientific mind gave him a keen insight into its fundamental principles, and enabled him to apply the details of the facts of a case to the underlying principles applicable thereto, which, together with a tenacious memory, made his mind a great storehouse of profound legal learning.

There was not one of all his contemporaries whose opinion on a matter of law was more eagerly sought for, and whose opinion was confidently, and more implicitly relied upon. I do not think that I am doing injustice to any one, when I say that he was—taking him all in all—the brightest ornament of Northampton county's bar during a period of a quarter of a century.

Then, outside of his profession, what a remarkable man he was! I know of no one who in his time possessed such a vast fund of information. His knowledge of men and books made him a marvel. He did not read books merely as a pastime, but to study them; and his reading was so vast and general, that there were not many things conceivable, in history, literature, or in the domain of philosophy of which he was not master. There are not many problems which the human intellect has succeeded in solving with which he was not familiar; while in abstruse learning, which admit only of philosophic speculation, he was a profound scholar and thinker. Many of us remember well what a pleasure it was to listen to Mr. Fackenthall talking about men and books. Those moments still bring

with them pleasure as they are recalled. One never left him without having added to his own store of knowledge and information. So he continued to the end, always the same philosophic scholar and student—the same learned lawyer, genial friend and companion.

In politics Mr. Fackenthall was an ardent Republican, who believed in the principles and tenets of his party from the highest standpoint of good citizenship. He was even something of a partisan, but always tolerant of other persons' views. He was a true patriot. He loved his country for his country's sake, and had no sympathy with the men who are merely traders in politics; and that may be one reason why he never entered the domain of politics. A man of such a standard of individual worth as that of Mr. Fackenthall would be ill at ease with most of the bartering politicians who win political honors today in both parties. He not only despised the commercialism in party politics of today, but had little respect for those who achieved their political ends by those means.

With this feeble tribute to our late associate, I ask you to accept this portrait as a memorial to his worth, and to recall the high standard of a lawyer, which those who come after him may emulate.

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